HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION No.17994 of 2007

Date: 28-08-2007.

Between :

M/s.Satyam Computer Services Limited,
Secunderabad, rep. by its Manager (Finance).

.....Petitioner

And

The Assistant Commissioner (CT)-II, Begumpet Division,
Hyderabad.

.....Respondent.

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ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Show cause notice was issued almost a year before and correspondence between the assessee and the Assistant Commissioner during this period was made on several occasions, and ultimately, the petitioner sought a personal hearing and the Assistant Commissioner, vide letter dated 23.07.2007, informed the petitioner/assessee that an opportunity of personal hearing was being granted to them and the assessee should appear on 25.07.2007 at 11 a.m. in the office of the Deputy Commissioner (CT), Begumpet. This letter was written by the Assistant Commissioner on 23.07.2007 and received by the petitioner on 24.07.2007, which is not disputed. After this letter was received by the petitioner on 24.07.2007, he wrote a letter on 25.07.2007 to the Assistant Commissioner, asking for one week time to appear as the person, who was appearing on their behalf, was not

available and was in transit. The Assistant Commissioner did not accept the request and decided the matter on 30.07.2007 without hearing the petitioner.

After hearing learned counsel for the parties and with their consent, the writ petition is decided at this stage.

From the face of the record, it appears that just by way of a formality, a notice of personal hearing was given by the Assistant Commissioner. Notice was given on 23.07.2007, which was received by the petitioner on 24.07.2007 and the petitioner had to appear on 25.07.2007. Giving of opportunity of personal hearing should not be an empty formality. Right of hearing is a right of the person against whom an order is passed, but in the facts and circumstances of the case, we feel that the Assistant Commissioner only wanted to fill up the gap and not provide an opportunity of hearing as envisaged by law. The matter was pending for a long time before the Assistant Commissioner and it would not make a difference had it been adjourned by another week. In any case, after 25.07.2007 also, the Assistant Commissioner took almost a week to pass the order.

Therefore, on this ground alone, we allow the writ petition, set aside the impugned order and direct the petitioner to appear before the Assistant Commissioner on 03.09.2007. No further notice is necessary to be given to the petitioner. The Assistant Commissioner, on that day,

or on a subsequent date appointed by him, shall hear the petitioner and pass appropriate orders in accordance with law. It may also be noted that the disposal of this writ petition and setting aside of the impugned order should not be taken as an expression of opinion about the merits of the case.

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BILAL NAZKI, J

28th August 2007.

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S. ANANDA REDDY, J

ajr